



**COMPETITION COMMISSION OF INDIA**

**Case Nos. 47, 48 and 49 of 2017**

**Case No. 47 of 2017**

**In re:**

**Maj. Pankaj Rai  
12 Vayupuri, Road No. 2,  
Vayupuri, Post Sainikpuri,  
Secunderabad – 500094**

**Informant**

**And**

**NIIT Limited  
8 Balaji Estate, First Floor,  
Guru Ravidas Marg, Kalkaji,  
New Delhi – 110019**

**Opposite Party**

**Case No. 48 of 2017**

**In re:**

**Ms. Pankaj Gupta  
Flat 205, Bhavya's Akhila Exotica,  
Hydernagar, Kukatpally,  
Hyderabad – 500072**

**Informant**

**And**



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**NIIT Limited**  
**8 Balaji Estate, First Floor,**  
**Guru Ravidas Marg, Kalkaji,**  
**New Delhi – 110019**

**Opposite Party**

**Case No. 49 of 2017**

**In re:**

**Shri Lakshmi Reddy Eddula**  
**A101, Keshavdale Apartments,**  
**Anand Nagar Colony, Kahiaratabad,**  
**Hyderabad – 500004**

**Informant**

**And**

**NIIT Limited**  
**8 Balaji Estate, First Floor,**  
**Guru Ravidas Marg, Kalkaji,**  
**New Delhi – 110019**

**Opposite Party**

**CORAM**

**Mr. Devender Kumar Sikri**  
**Chairperson**

**Mr. S. L. Bunker**  
**Member**



**Mr. Sudhir Mital**  
**Member**

**Mr. Augustine Peter**  
**Member**

**Mr. U. C. Nahta**  
**Member**

**Justice G. P. Mittal**  
**Member**

**Presence:**

*For Informant (Case No. 47 of 2017):* Maj. Pankaj Rai, Informant in person

*For Informant (Case No. 48 of 2017):* Shri Ashesh Gupta

*For Informant (Case No. 49 of 2017):* None

*For Opposite Party:* Shri Rajsekar Rao, Advocate  
Shri P. Ram Kumar, Advocate  
Ms. Rahat Dhawan, Advocate  
Shri Shivain Vaidyazingam, Advocate  
Shri Bikas Jha, Legal Head  
Shri Taposh Ray, Sr. V.P.

**Order under Section 26(2) of the Competition Act, 2002**

1. The informations in the instant matters have been filed by Maj. Pankaj Rai in case no. 47 of 2017, Ms. Pankaj Gupta in case no. 48 of 2017 and Shri Lakshmi Reddy Eddula in case no. 49 of 2017 (hereinafter, the 'Informants') under Section 19(1)(a) of the



Competition Act, 2002 (hereinafter, the ‘Act’) against NIIT Limited (hereinafter, the ‘OP’) alleging contravention of the provisions of Sections 3 and 4 of the Act.

2. This common order shall dispose of the afresaid three cases as the OP is common in all the three cases and the allegations of all the Informants are substantially similar.
3. As per the informations, the Informants are the franchisees of the OP in the city of Hyderabad and are engaged in the business of provision of computer education/ training services. They are offering computer education to the members of public for making them more proficient in use of computer softwares and enable them to occupy different professional positions related to the use of computer. That the OP is a well-known brand, *inter alia*, engaged in the business of computer education and is a global leader in skill and talent development. It offers multi-disciplinary courses in management and training delivery solutions to corporations, institutions and individuals in over forty countries.
4. The Informants have contended that initially, as franchisees of the OP, they were granted rights to offer the Post Graduate Diploma in Banking Operations (PGDBO) course conducted by the OP in collaboration with ICICI Bank but, subsequently, the OP revoked the rights for offering the said course from the Informants. It is alleged that the OP was unfairly continuing the same course at its own centre at Basheerbagh, Hyderabad.
5. It is averred that the OP is directly approaching schools located within the territories of the Informants and has been offering computer related courses through its computer teaching program ‘*nguru*’. Further, it is alleged that the OP is encroaching into the territory allotted through the license agreement and depriving the Informants of their legitimate share of revenue from that territory.
6. It is alleged that the OP is undercutting prices and offering courses at highly discounted prices as compared to the prices offered by the franchisees. In this regard, it is alleged



that the OP has directly been entering into an agreement with 'Accenture', a global management consulting and professional service provider, for its courses by offering highly discounted prices as compared to the prices available for Hyderabad city, thereby eating into the revenue of the Informants.

7. It is averred that the OP follows a differential pricing pattern for its consumers in metros *vis-a-vis* its network centres *i.e.* non-metro which is detrimental for the students (end customers) as well as the franchisees as the higher prices render the courses of the franchisees uncompetitive. Further, the OP has a different revenue sharing slab and license renewal fee for its franchise licensee in metros *vis-a-vis* network centres. At network centres, the revenue sharing arrangement is 70:30 in favour of the franchisees whereas there is no clear-cut policy for revenue sharing between the OP and franchisees for metros, nor any rationale is adopted in fixing them. The OP's share from franchisees at metros is between 50-60 percent, depending on the product and is also varied at the whims of the OP without even informing the franchisees.
8. It is alleged that by way of NIIT.tv initiative, an online platform which offers courses free of cost, the OP is indulging into predatory pricing as the prospective customers in a franchisee's territory could register online and subscribe for courses through *NIIT.tv*. Through this platform the OP by offering courses for schools, colleges, and working professionals directly is alleged to be ruining the business of the franchisees.
9. It is averred that the OP makes invoices which are advantageous to it and the monetary values are round off to next higher value even if the value after the decimal is lower than five which is against the practices followed by convention internationally. This unethical practice of the OP deprives an unsuspecting franchise of its revenue since it believe that a system generated invoice would be error free.
10. Furthermore, it is stated that the OP has arbitrarily reduced the Informants share from 20 percent to 10 percent in *Imperia* courses. NIIT *Imperia* is an initiative of the OP whereby



advanced management courses ranging from 4 to 12 months are offered to working professionals in collaboration with leading management institutes. It is alleged that such action of the OP is arbitrary and amounts to abuse of dominant position by it.

11. It is averred that the OP is poaching customers of the franchisees through 'Training.com,' an online training portal of NIIT through which courses on technology, management and digital marketing are offered. The courses that are offered on *Training.com* are similar to the ones that are available with the franchisees. Through the said portal, the OP influences students from the territory of any franchisees to register for online courses while the franchisees who have paid exorbitant license fees to the OP are not passed any corresponding benefits.
12. Based on the above, the Informants have prayed to the Commission, *inter alia*, for inquiry into abuse of dominant position by the OP, to direct the OP to discontinue and not to enter into agreements/ conveyance deeds containing clauses which have been alleged to be unfair and to direct the OP to compensate the Informants.
13. The Commission has perused the material available on record including the information and heard the parties on 12<sup>th</sup> October, 2017 and also considered their respective submissions. The Commission observes that the Informants are primarily aggrieved by the conduct of the OP in abusing its dominant position through its franchise agreements in contravention of the provisions of Section 4 of the Act and indulging in anti-competitive practices in contravention of the provisions of Section 3 of the Act.
14. The Commission observes that the OP has licensed the franchisees such as the Informants to offer its advance software courses in the field of computer software education such as C, C++, Advanced Excel, Implementing JAVA, Higher Diploma in IT, Certificate in IT, Diploma in IT (Business Systems and Information Management) *etc.*. The Commission notes that computer and IT skill training requires special knowledge on the subject and



hence is a distinct service compared to the skill training services in other professional and non-professional areas in terms of its characteristics, prices and end use. It is observed that the agreement entered into between the OP and each of the Informants specifies that the OP is engaged in the business of computer education and is providing professional skill training in the field of use of computers. Since the allegation in the instant matters pertains to the abusive conduct of the OP in the market for computer education services, the '*market for the provision of computer education and training services*' may be considered as the relevant product market. With respect to the relevant geographic market, it is observed that the OP provides computer education services across the country through its own centers/ through franchisee centres as well as through online. The centres of the OP/ franchisees scattered across India. Further, online courses on computer education are available from various location across India. Hence, the relevant geographic market in these matters may be considered as '*India.*' Accordingly, the relevant market may be considered as '*market for the provision of computer education and training services in India.*'

15. With respect to dominance of the OP in the relevant market, it is observed that apart from the OP, there are many other players such as Aptech, CSC Computer Education Private Ltd., Jetking, HCL Career Development Centre, ICT Computer Academy, APOLLO Computer Education and DUCAT operating in the relevant market and offering similar courses in the area of computer education as offered by the OP. As per the information available in public domain, the OP has around 400 centres in the relevant market while its competitors like CSC Computer Education Private Ltd. and Aptech, are having comparable number of centres in the aforesaid relevant market. It may be noted that during the oral hearing, the Informant in case no. 47 of 2017 had admitted that Jetking has a comparable number of Computer/ IT training centres as of the OP in the city of Hyderabad where the Informants have been licensed to operate. The aforesaid information indicates that the OP is operating in a competitive environment and faces rivalry from large number of similarly placed players. The presence of such large number



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of players with a network centres scattered across the country acts as a competitive constraint upon the OP thereby prevents it from operate independently of the market forces in the relevant market while at the same time providing multiple options to the consumers for availing the aforesaid services. Even if the relevant market is narrowed to the city of Hyderabad, the OP is not the dominant player with presence of large players like Jetking, Aptech *etc* in the market.

16. Based on the above, the Commission is of the view that the OP does not possess the market power to act independently of the competitive forces in the relevant market or has the ability to affect its competitors or consumers in the relevant market in its favour. Therefore, the OP is not found to be in a dominant position in the relevant market.
17. As far as the allegation under Section 3 of the Act is concerned, it is noted that the prevailing competition is compelling the OP to venture into online mode of delivery though it learning portals such as Training.com, *nguru* and *NIIT.tv*. In order to improve efficiency in the market and to add value for the consumers, almost all the services including professional training are imparted through online mode rather than through the traditional classroom mode to meet growing requirements of the consumers. This signifies that the OP's conduct is not contrary to the dynamics of competition in the relevant market. Further, with regard to the allegation of discrimination between franchisees, it is observed that the OP supplies all the necessary course materials and trains the faculty members of the franchisees. It also equips the franchisees with curriculum, courseware, detailed operation manuals and process *etc.* without any discrimination. Owing to differences in the factors such as lower awareness in non-metro areas, lack of affordability by the student in non metros, responsibility of marketing and job placements of students *etc.*, the differential pricing of courses and revenue sharing agreement by the OP does not seem to be arbitrary and thus the allegations of the Informants cannot be said to be justified. Thus, the Commission is of the view that no case under Section 3 is made out against the OP in the instant matters.





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18. In the light of the above analysis, the Commission finds that no *prima facie* case of contravention of either the provisions of Sections 3 or 4 of the Act is made out against the OP in the instant matters. Accordingly, the matters are closed under the provisions of Section 26(2) of the Act.
19. The Secretary is directed to communicate to the parties accordingly.

**Sd/-  
(Devender Kumar Sikri)  
Chairperson**

**Sd/-  
(S. L. Bunker)  
Member**

**Sd/-  
(Sudhir Mital)  
Member**

**Sd/-  
(Augustine Peter)  
Member**

**Sd/-  
(U. C. Nahta)  
Member**

**Sd/-  
(Justice G. P. Mittal)  
Member**

**New Delhi  
Dated: 28 / 11 /2017**